

Docket 1307

No minutes
were
transcribed for
this docket.

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
KERMIT AND IRENE MECK : DOCKET NO. 1307

DECISION GRANTING VARIANCE

The applicants seek a variance from side yard setback requirements. A hearing on the application was held on February 23, 2012.

Facts

1. The applicants and owners of the property in question are Kermit and Irene Meck of 505 California Avenue, Harrisburg, Pennsylvania 17109.
2. The property in question is located on the west side of California Avenue and consists of a rectangular lot with 60 feet of frontage extending 125 feet in depth. The parcel is zoned Medium Density Residential, R-2.
3. The property is improved with a single family dwelling known s 505 California Avenue. The house is located 11 feet 9 inches from the northern property line at the rear of the house and 16 feet at the front and a greater distance from the southern line. A driveway accessing the property is located on the northern side extending to the side of the dwelling.
4. The applicant proposes to erect a carport along the northern side of the house over a portion of the existing driveway. The carport would be approximately 12 feet wide and would extend to within two feet of the northern property line.
5. Similar carports intruding into the required side yard setbacks are common in the area which is densely developed.

6. In addition to the applicant, Bob Gingrich of 500 California Avenue, the owner of the property directly across the street from the subject property, appeared to testify in favor of the requested variance.

7. Notice of the hearing was posted and advertisement made as required by the ordinance.

Conclusions

1. Article 307.A of the ordinance requires a minimum side yard setback of 5 feet with an aggregate setback of 15 feet. The proposed construction would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of the narrow lot width which severely limits the developable area. This hardship is further compounded by the existing pattern of development which does not leave sufficient room for any type of protected parking areas.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The proposed carport and the

intrusion is common in the neighborhood and there will be no impact upon the general welfare.

Decision


In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of a carport with a minimum side yard setback of two feet. In all respects construction of the carport shall be in strict accord with the plans and testimony submitted to the Board.


Date: 3/15/12

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD


Richard E. Freeburn

David B. Dowling


Sara Jane Cate


Jeffrey W. Staub


Watson Fisher

Docket 1308

No minutes
were
transcribed for
this docket.

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
CLASSIC COMMUNITIES : DOCKET NO. 1308

DECISION GRANTING VARIANCE

The applicant seeks variances from minimum lot width and side yard setback requirements. A hearing on the application was held on February 23, 2012.

Facts

1. The applicant and owner of the property in question is Classic Communities of 2151 Linglestown Road, Suite 300, Harrisburg, Pennsylvania 17110. The applicant was represented at the hearing by Lee Bothel, Director of Development, and by Bob Fisher, engineer.
2. The property in question is located on the north side of Laura Lane and consists of an irregularly shaped lot with a street frontage of approximately 60 feet. The lot is undeveloped and zoned R-1, low density residential.
3. The approved subdivision for the lot provides for a front yard setback of 45 feet. This was established to meet lot width requirements. The majority of the homes in the development have a front yard setback of 25 feet.
4. The lot in question has a severe drop off to the rear of the lot. In order to provide at least a minimum rear yard for recreation purposes the applicant proposes to erect a house with a front yard setback of 30 feet. This will result in side yard setbacks of 10 feet on one side and 11 feet 7 inches on the other side.
5. The applicant has elected to build the shallowest building plan available to minimize the intrusion into the existing front yard setback while still providing for a reasonable rear yard.

6. Notice of the hearing was posted and advertisement made as required by the ordinance.

7. No one other than the applicant and the proposed purchasers of the lot appeared to testify either in favor of or against the proposed variance.

Conclusions

1. Article 307.A of the ordinance requires a minimum side yard setback of 10 feet with an aggregate setback of 25 feet. The minimum lot width measured at the front yard setback line is 90 feet. The proposed building plan would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of its irregular shape which severely limits the developable area. This hardship is further compounded by the steep terrain and the presence of wetlands which severely limit the developable area.

4. Granting the variance will not alter the essential character of the neighborhood nor will it impair surrounding property values. The proposed setback is similar to or greater than the surrounding properties. Each of the proposed side yards

meets the required setback and the aggregate shortage will not be readily apparent to the general public. Surrounding property owners do not object to the proposed variance.

Decision


In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variances requested should be and are hereby granted allowing the construction of a house with a front yard setback of 30 feet and side yard setbacks of a minimum of 10 feet with an aggregate setback of 21 feet 7 inches. This grant of variance is subject to the applicant complying with the requirements to amend the subdivision plan. In all other respects, construction shall be in strict accord with the plans and testimony submitted to the Board.

Date: 3/15/12

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD


Richard E. Freeburn

David B. Dowling


Sara Jane Cate


Watson Fisher

Board member Staub abstained from participating in this matter.

Docket 1309

No minutes
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transcribed for
this docket.

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
TODD GELBAUGH, DAG, LP : DOCKET NO. 1309

DECISION GRANTING VARIANCE

The applicant seeks a variance from setback requirements for an outdoor recreational facility. A hearing on the application was held on February 23, 2012.

Facts

1. The applicant and owner of the property in question is Todd Gelbaugh, doing business as DAG, LP, of 4636 Jonestown Road, Harrisburg, Pennsylvania 17109. The applicant was represented at the hearing by Ronald Lucas, Esquire. Also appearing on behalf of the applicant was Justin Kuhn, site engineer.

2. The property in question is located on the east side of Care Street and the north side of Jonestown Road and consists of two parcels which meet to form an L-shaped parcel with frontage on the two referenced streets. The Jonestown Road parcel is 150 feet wide and extends in depth between 360 feet and 380 feet. The Care Street parcel is 233.74 feet wide and extends approximately 200 feet. The parties share a common property line along the eastern line of the Care Street property. The parcel is zoned Commercial, C-1.

3. The Jonestown Road parcel is improved with a commercial building and related parking from which the applicant operates a seasonal frozen custard business. The applicant proposes to remove the existing dwelling on the Care Street parcel and to erect a miniature golf facility in the northeast corner of the combined lots. Batting cages would be erected in the northwest corner of the combined lots and additional parking spaces would be created at the inside corner of the combined lots.

4. The property is adjoined to the east and to the eastern portion of the northern boundary by commercial uses with illuminated parking lots. To the remainder of the northern line are residential uses as well as to the south of the Care Street lot.

5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the applicant and his representatives appeared to testify either in favor of or against the proposed variance.

Conclusions

1. Section 402.A.39 of the ordinance requires a minimum setback of 75 feet from residential lot lines for outdoor nighttime recreational activities. The proposed batting cages and miniature golf course would violate this section of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of its limited lot area and irregular shape which combine to make most of the lot fall within the 75 feet setback from residential uses.

4. Granting the variance, with appropriate conditions to protect residential uses, will not alter the essential character of the neighborhood nor impair surrounding property values. The adjoining properties are primarily commercial and the few remaining residential properties are already subject to light pollution from the existing parking areas. The impact of the batting cages can be limited by requiring appropriate screening. Further, the applicant has testified that construction will not include chain link fencing for the batting cages. Rather, they will use nylon netting and rubber balls to minimize the noise impact.

Decision


In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of a miniature golf course and batting cages on the subject property and subject to the following conditions:

- (a) the applicant shall erect a six feet tall PVC privacy fence along the border with the Owen property and the Davis property as depicted on applicant's plan;
- (b) the applicant shall include opaque screening on the north and west sides of the batting cages;
- (c) hours of operation of the batting cages shall not extend beyond 9:30 p.m.

In all other respects construction and operation of the batting cages and the miniature golf course shall be in strict accord with the plans and testimony submitted to the Board.

Date: 3/15/12

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD



Richard E. Freeburn

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